2610.

SUPREME COURT OF THE UNITED STATES.

No. 275.

THE UNITED STATES, APPELLANTS,

vs.

JOSEPH HUGHES.

APPEAL FROM THE DISTRICT COURT, U. S., FOR LOUISIANA.

INDEX.

	Original.	Print.
Petition of plaintiff	1	3
Demurrer filed by district attorney	4	4
Entry of record, granting leave to file a supplemental petition	5	5
Supplemental petition	5	5
Answer to supplemental petition and petition	7	6
Entry of record, fixing cause for the 14th of June, proximo, 1848	7	6
Entry of record, continuance of cause	8	6
Entry of record, motion for experts	8	7
Entry of record, appointment of two experts	9	7
Entry of record, order appointing a third expert	10	8
Entry of record, waiver of demurrer	10	8
Entry of record, waiving of examination by experts	11	8
Entry of record, judgment dismissing cause	11	8
Entry of record, cause reinstated	12	8
Entry of record, submission of cause	12	9
Evidence offered by plaintiff.		
1°. Doc. C, petition of José Guidry, and concession by Manuel Gayoso de Lemos	13	9
Notice to which the foregoing document is appended	13	9
2°. Deposition of A. Cruzat as to Doc. C	14	10
3°. Deposition of C. L. Blache as to Doc. C	16	10
4°. Deposition of C. Songy as to M. Guidry	17	11
5°. Deposition of Thomas H. Lewis as to signature to Doc. Q	19	12

Gideon, Printer.

	Original.	Print.
6°. Doc. Q, endorsed Joseph Guidry to André Martin, referred to in Thos. H. Lewis' deposition - - - - - - -	20	13
7°. Deposition of Zenon Labauve as to signatures of witnesses to foregoing act of sale - - - - - - - -	21	13
8°. Deed of sale by André Martin to Joseph Hughes - - -	26	16
Close of evidence.		
Entry of record, judgment - - - - - - -	28	16
Entry of record, order of appeal - - - - - - -	29	17
Entry of record, motion to set aside order of appeal - - -	30	18
Entry of record, continuance of the above motion - - -	31	18
Entry of record, motion taken under advisement - - -	31	18
Entry of record, judgment dismissing same - - - - -	32	18
Clerk's and judge's certificates - - - - - - -	33	19
Citation of appeal and return - - - - - - -	34	19

U. S. district court, eastern district of Louisiana, in chancery.

JOSEPH HUGHES
vs.
The UNITED STATES. } No. 46.

Be it remembered, that heretofore, to wit, on the 16th day of June, being at the May term, A. D. 1846, of said court, Joseph Hughes, by his solicitor, E. Stevens, esq., came into the clerk's office of said court, and filed his petition, which is in the words and figures following, to wit:

To the honorable district court of the United States, in and for the district of Louisiana, the petition of Joseph Hughes, of the parish of St. Landry, in the State of Louisiana, with respect represents:

That Joseph Guidry, on the 10th day of January, 1799, presented his requette or petition to Manuel Gayoso de Lemos, then governor of the province of Louisiana, for a grant of land, adjoining the land of André Martin, on the west bank of the river Atchafalaya, near where the Pointe Coupée trace from Opelousas crosses the said river; said grant, by said petition or requette, to have a front of forty arpents on said river, with a depth of forty arpents. And that on the first day of February, in the year aforesaid, the said Manuel Gayoso de Lemos, governor as aforesaid, did grant to the said Joseph Guidry the above described tract of land as prayed for in his said petition or requette.

Your petitioner further represents that the said claim was presented to a board of commissioners appointed under the provisions of an act of Congress, approved on the 6th February, 1835, entitled "An act giving further time to claimants to lands to present their claims," &c., and that the said board of commissioners did report favorably on the aforesaid claim, and recommended it for confirmation to Congress, and that no final action of Congress was ever had thereon.

Your petitioner further represents that no part or portion of the aforesaid claim has been sold by the United States, except a small part thereof, which was sold to John L. Daniel, as will more fully appear by the certificate of the register of the land office at Opelousas, or the certificate of the commissioner of the General Land office, to be produced on the trial of this suit; and that no one resides on or claims any portion of the land in question, except the said Daniel, or those holding under him, or those holding under your petitioner.

Your petitioner further represents that the requette or petition of the said Guidry, together with the decree of the said governor of the province of Louisiana aforesaid, were filed in the land office at Opelousas, under the provisions of the act of Congress, approved on the 6th of February, 1835, as aforesaid, and that the said last mentioned act of Congress required the original titles to be sent on to Congress with the

report, and that the said titles are now in the possession of the Government of the United States; and that your petitioner can only present certified copies, which will be filed in this suit, and leave asked [that] they may be made a part of this petition.

Your petitioner further represents that he is the owner, by a chain of mesne conveyances, of one thousand arpents of the aforesaid tract of land, to be taken as near the river Atchafalaya as they may be found, so as not to interfere with the rights of any one who may have purchased from the United States; and it is further represented that, under the provisions of an act of Congress, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and those parts of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers," approved on the 17th June, 1844, which did revive (*and*) an act entitled "An act to enable claimants to lands within the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims, approved on the 26th of May, 1824," and extended its provisions to the State of Louisiana, and to other States, the benefits of which said acts of Congress your petitioner now claims.

The premises considered, your petitioner prays leave to file this his petition, that a copy thereof may be served on the district attorney of United States for this district, and that after proper proceedings, that it may be adjudged and decreed by this honorable court, that the title of your petitioner is good and valid against the United States, and that he is entitled to patents from the United States for the above last described tract of land of one thousand arpens, to be legally surveyed, or to be taken according [to] the surveys of United States, in such manner as not to interfere with the rights of those who have purchased from the United States.

And your petitioner further prays for such other and further relief as justice, equity, and the nature of the case may require, and as in duty bound, &c.

(Signed,) E. STEVENS, *Att'y of Pet'r.*

And the foregoing petition was thus endorsed.

Service accepted, citation waived, and copy furnished, June 16th, 1846.

(Signed,) S. W. DOWNS,
U. S. Att'y, Dist. of La.

And afterwards, to wit, on the 18th November, 1846, the following demurrer was filed of record in the clerk's office of said court:

In the district court of the United States, for the district of Louisiana.

JOSEPH HUGHES
vs. } 46.
The UNITED STATES.

The demurrer of the United States, defendants to the petition of Joseph Hughes.

The defendant, not confessing all or any of the matters in plaintiff's petition set forth, doth demur in law to the said petition, and for cause of demurrer shows that the plaintiff has not, by his petition, made out such a case as entitles him to relief under the act of Congress of 17th June, 1844, and the acts thereby revived; and for cause of demurrer saith, that in said petition it is not alleged that the original grant relied on was made to a party, at the date thereof, a resident of the province of Louisiana.

Wherefore the defendant doth demur to the said petition, and prays the judgment of this honorable court, whether he shall be compelled to make any further answer to the said petition; and he prays to be hence dismissed.

(Signed,) THOMAS J. DURANT,
Attorney U. S. for La.

And afterwards, to wit, on the 14th January, (being at the December term, A. D. 1847,) the following entry was made of record.

Thursday, January 14th, 1847; present hon. Theo. H. McCaleb.

JOSEPH HUGHES
vs. } No. 46.
The UNITED STATES.

Upon motion of E. Stevens, esq., of counsel for the petitioner in the suit as above entitled, it is ordered that the supplemental petition exhibited to the court in said suit be filed, and that the same be taken as part of the original petition, and that a copy thereof be served upon Thos. J. Durant, the district attorney of the United States.

And thereupon, to wit, on the same day, the following supplemental petition was filed of record in the clerk's office:

To the honorable the district court of the United States, in and for the district of Louisiana.

JOSEPH HUGHES
vs. } 46.
UNITED STATES.

The supplemental petition of Joseph Hughes, plaintiff in the above entitled suit, respectfully represents, that Joseph Guidry, the original grantee mentioned in the original petition filed in this suit, was at the date of said grant, and subsequently, a resident of the province of Louisiana; that the said grant, or order of survey, was legally made and issued before the 10th day of November, 1804, by the proper authorities; that the same was protected and secured by the treaty between the United States of America and the French Republic, of the 30th April, A. D. 1803, and might and would have been perfected into a complete title, under and in conformity to the laws, usages, and customs of the government under which the same originated, had not the sovereignty of the country been transferred to the United States, and is situated in the State of Louisiana.

Your petitioner further avers, that said grant, concession, or order of

survey was valid by the laws, ordinances, usages, and customs of the said government under which the same originated; that the said grant or claim is valid by the laws of nations, by treaty stipulations, and proceedings under the same, the several acts of Congress in relation thereto, and the principles of equity and justice.

Wherefore your petitioner prays (as he has already prayed) for leave to file this his supplemental petition; that it be taken and treated as a part of his original petition; that the United States district attorney be duly cited to answer this supplemental petition, and after proceedings shall be duly had, that your petitioner be confirmed in his title, and for such other and further relief as equity and justice may require.

(Signed,) E. STEVENS,
Attorney for Pet'r.

And afterwards, to wit, on the 13th day of February, (being at the December term,) A. D. 1847, the following answer to plaintiff's supplemental petition and petition was filed of record in the clerk's office:

In the district court of the United States, for the district of Louisiana.

JOSEPH HUGHES
vs. } 46.
THE UNITED STATES.

And now comes into the aforesaid district court Thomas J. Durant, attorney of the United States, for the district of Louisiana, and for answer to the supplemental petition herein filed by plaintiff, respectfully represents, that the defendants, the United States, deny all and singular the facts and allegations in said petition set forth.

Wherefore they pray that the aforesaid petition may be dismissed, and that the plaintiff be condemned to pay all costs.

(Signed) THOMAS J. DURANT,
Attorney of the United States for the district of Louisiana.

And afterwards, to wit, on the 24th day of May, being at the May term, A. D. 1848, the following entry was made of record:

Wednesday, May 24th, 1848.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES
vs. } No. 46.
THE UNITED STATES.

This cause was this day called, and on motion of J. L. Daniel, esq., for plaintiff, fixed for Wednesday, the 14th of June proximo.

And further, at the same term, and on the 15th day of June, A. D. 1848, the following entry was made of record:

Thursday, June 15th, 1848.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES
vs. } No. 46.
THE UNITED STATES.

On motion of John L. Daniel, esq., the court ordered that this case be continued until further notice.

And afterwards, to wit, on the 12th day of March, being at the February term, A. D. 1849, the following entry was made of record:

Monday, March 12th, 1849.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

On motion of Thomas J. Durant, attorney of defendants, it is ordered by the court that Joseph Hughes, plaintiff, do show cause on Saturday next, the 17th day of March, A. D. 1849, at 10 o'clock, a. m., why experts should not be appointed in this case to compare the signature of Gayoso de Lemos to the alleged grant herein relied on, with other signatures of the said Gayoso de Lemos, proved to have been by him written, and annexed to document in the record of Shelton *versus* The United States, No. 12, and Bailey *vs.* The same, No. 3, of the docket of land causes in this court, and to report thereon.

And further, at the same term, on the 19th day of March, A. D. 1849, the following entry was made of record:

Monday, March 19th, 1849.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

The rule entered herein on the 12th instant, was this day taken up by consent; John L. Daniel, esq., attorney in fact for complainant, and the United States district attorney for the defendants, present: Whereupon, it is ordered that said rule be made absolute, and that Carlos Blache, esq., on the part of the plaintiff, and Jackson Duplessis, esq., on the part of the defendants, be, and they are hereby, appointed experts to compare the signature of Manuel Gayoso de Lemos to the document marked C, and of record herein, with other signatures of the said Lemos attached to documents, also of record in this court, in the following causes, to wit:

No. 12—Lewis N. Shelton *vs.* The U. S.; No. 3—Hugh Bailey *vs.* The U. S., and to report the result of their examinations to this court.

And further, at the same term, to wit, on the 27th day of March, A. D. 1849, the following entry was made of record:

Tuesday, March 27th, 1849.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

In this cause it is ordered by the court, that Joseph Reynes, esq., be, and he is hereby, appointed as a third expert to confer with and decide between those already appointed in relation to the signatures submitted to their inspection.

And further, at the same term, to wit, on the 22d day of April, A. D. 1849, the attorney of the U. States filed in the clerk's office the following

Waiver.

In consequence of the filing of a supplemental petition herein, curing the defect objected to by the demurrer filed on the 18th November, 1846, the same is now waived.

(Signed,) THOMAS J. DURANT,
Att'y U. S., for La.

And further, at the same term, to wit, on the 23d day of April, A. D. 1849, the following entry was made of record:

Monday, April 23d, 1849. Present, hon. Theo. H. McCaleb.

JOSEPH HUGHES
vs. } 46.
The UNITED STATES.

By consent of the counsel for the respective parties herein, it is ordered, that the reference to experts called for in the entry of March 19th, be and the same is hereby waived.

And afterwards, to wit, on the 30th day of May, being at the May term, A. D. 1849, the following entry was made of record:

Wednesday, May 30th, 1848. Present, hon. T. H. McCaleb.

JOSEPH HUGHES
vs. } 46.
The UNITED STATES.

This cause, thus entitled, having been called up for hearing in furtherance of the general order entered May 21st, and the plaintiffs not appearing to prosecute it, it is thereupon ordered, adjudged, and decreed, that said cause be dismissed with costs, and judgment entered up for defendants.

And further, at the same term, to wit, on the 31st day of May, 1849, the following entry was made of record:

Thursday, May 31st, 1849. Present, hon. Theo. H. McCaleb.

JOSEPH HUGHES
vs. } No. 46.
The UNITED STATES.

On motion of John L. Daniel, esq., attorney in fact for the plaintiff, the attorney of the United States being present, and not opposing the motion,

It is ordered by the court that this cause be reinstated on the docket, to be forthwith tried and disposed of.

2614.

And afterwards, to wit, at the same term, being the 2d day of June, A. D. 1849, the following entry was made of record:

Saturday, June 2d, 1849. Present, hon. Theo. H. McCaleb.

JOSEPH HUGHES vs. The UNITED STATES. } No. 46.

This cause was to-day taken up by consent. John L. Daniel, esq., attorney in fact for plaintiff; Thos. J. Durant, esq., on behalf of the United States, parties thereto present, and on the evidence of record was thereupon submitted to the court.

And be it remembered, that the evidence of record, and offered this day on behalf of the plaintiff, is the following:

1o. Purporting to be the original petition of José Guidry, and concession by Manuel Gayoso de Lemos.

Document C.

Señor gob'or y comande. general.

José Guidry, respectuosamente á V. S. expone qe. deseando obtener cuarentas arpanes de tierra á frente, con la profundid. ordinario sobre el rio Archafalia, adjunto á las solicitado por Don Andres Martin.

Nueva Orleans, 1o de Febru., de 1799.

Concedo lo qe. pide.

(Signed) MANUEL GAYOSO DE LEMOS.

A V. S. suplica vendidamente se sirva tener abien. concederle, libransose. á este afecto en titulo en forma qe. corresponde: Gracia qe. espera el suplicante de la justicia y buen corazon de V. S.

Nueva Orleans, y Enero 10, de 1799.

(Signed) JOSE GUIDRY.

(*Notice to which the foregoing document is appended.*)

To the register and receiver of the land office at Opelousas, La.

GENTLEMEN: Please take notice, that a claim is hereby filed for record, report, and confirmation, for forty arpens of land in front, by the ordinary depth, situated on the river Achafalia, near a tract of land asked for by André Martin; the said land was granted by Manuel Gayoso de Lemos to Joseph Guidry, by a decree and order of survey dated at New Orleans, the 1st of February, 1799. The said tract of land is now claimed by the said Guidry, in virtue of several acts of Congress giving further time for the adjustment of titles and claims to land in the State of Louisiana.

Respectfully submitted,

(Signed) JOHN L. DANIEL, *for the claimant.*

Opelousas, February 1st, 1837.

2o. *Deposition of A. Cruzat as to document C.*

JOSEPH HUGHES
vs.
The UNITED STATES. } No. 46.

Clerk's office, United States district court. March 16th, 1847.

The parties representing the plaintiff and defendants in this cause appeared to-day before me the undersigned commissioner, and by consent the plaintiff proceeded to have the deposition taken of A. Cruzat.

Antoine Cruzat, on behalf of the plaintiff, being duly sworn, states that the signature of Manuel Gayoso de Lemos is the true and genuine handwriting of said Gayoso, as appears on document C, under the date purporting to be New Orleans, February 1st, 1799.

Cross examined by the district attorney.

Witness was not employed in the office of secretary, in the year 1799; does not know the handwriting above the signature of Gayoso. Witness was acquainted with the handwriting of Tessier, Mercier, and his brother, who were employed in the secretary's office, and it is not the handwriting of either of them. There were other persons occasionally employed in the secretary's office. He heard mention of a man named Guidry at that time, but had no personal acquaintance with him. Does not know the handwriting of Guidry's petition in said document. States that the paper used in the secretary's office was manufactured in Barcelona, Spain; but it was not manufactured for the use of Government expressly; they used paper indiscriminately of different kinds. Witness has no idea how the paper of doc. C became colored or stained. It has been about forty-nine years since witness saw Gayoso write his name; his mind is very clear about his handwriting; he had a peculiar mode about writing his capital M.

(Signed) A. CRUZAT.

I, N. R. Jennings, duly appointed commissioner to take depositions in land causes, do certify, that the foregoing deposition was reduced by me to writing in presence of the witness, A. Cruzat, and that the same was subscribed to by him before me. March 16th, 1847.

(Signed) N. R. JENNINGS, *Comm'r.*

3o. *Deposition of C. L. Blache, as to signature to doc. C.*

U. S. district court, eastern district of Louisiana.

Clerk's office, 9 a. m., June 1, 1849.

JOSEPH HUGHES
vs.
THE UNITED STATES. } No. 46.

Testimony taken by consent, before Robt. M. Lusher, deputy commissioner in land causes.

Present, Jno. L. Daniel, attorney in fact for plaintiff; Thomas J. Durant, esq., on behalf of the defendants.

Mr. Charles Louis Blache, a witness for the plaintiff in the above cause, on examination of the original document filed therein as doc. C, purporting to be a petition for land signed by Jose Guidry, and order thereon of date February 1st, 1799, and signed by Manuel Gayoso de Lemos, on oath declares that he is very familiar with the signature of the said Lemos, and believes that before him to be his true and genuine signature. The entire order is also in the handwriting of said Lemos. Witness formerly worked in the said office with the said Gayoso de Lemos, and frequently saw him write and sign his name.

The attorney for the U. S. being present, propounds no cross questions.

(Signed) CHAS. LOUIS his X mark BLACHE.

Said mark made owing to the fact, as witness declares on oath, that he has not been able to use his right hand in signing for many years past; his children now serving him in such particular.

Attest: (Signed) ROBT. M. LUSHER,
D'y Commissioner.

The foregoing (and above) I certify to be the true and exact deposition of Chs. Louis Blache, the witness, as taken down by me in writing, read over aloud to the witness, and by him signed as above in my presence.

Witness my hand, this 1st June, 1849.

(Signed) ROBT. M. LUSHER,
D'y commissioner, &c., &c.

4o. *Deposition of C. Songy as to "Mine" Guidry.*

Clerk's office, January 26th, 1849.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

Be it remembered, that on this 26th day of January, A. D. 1849, before me, the undersigned deputy clerk of said court, and ex officio deputy commissioner for taking testimony in land causes, appeared the plaintiff in the above cause, by John L. Daniel, esq.; the attorney for the defendants also appearing; when I proceeded to take down in writing, as follows, the deposition of Cyprien Songy, esq., a witness for the plaintiff, said deposition being given in the French tongue, the witness' vernacular, and by me rendered into English.

Cyprien Songy, esq'r, witness for the plaintiff, being duly sworn, states: That he was acquainted with "Mine" Guidry from his earliest infancy (10 years or thereabouts) up to the time of his death; that said Mine Guidry was a brother of Augustin Guidry, and that both were, from general reputation, Creoles of the country, and always resided therein. No other individual than that spoken of above has been known

to witness by the name of "Mine" Guidry. If "Mine" Guidry were now alive he would be about 75 years of age. Witness himself is now in his fiftieth year.

(Signed) CYPRIEN SONGY.

Sworn to and subscribed, this 26th January, A. D. 1849, before
(Signed) ROBT. M. LUSHER,
D'y Clerk, U. S. dist. ct., and ex officio d'y commissioner in land causes.

The foregoing I certify to be the true and exact deposition of Cyprien Songy, a witness for the plaintiff, as taken down by me and signed in my presence; and further, that the district attorney being present, no cross questions were propounded to the witness.

(Signed) ROBT. M. LUSHER, *D'y Comm'r.*

5o. *Deposition of Thos. H. Lewis, on document Q as to signatures.*

U. S. district court.

Clerk's office, 6 p. m., June 13th, 1848.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

Before me, Robt. M. Lusher, deputy commissioner, acting under the ninth rule of practice of this court in land causes, this evening appeared the plaintiff in the above entitled suit, by his attorney in fact, J. L. Daniel; and the defendants by their attorney, Thomas J. Durant, esq., when, Thomas H. Lewis, a witness for the plaintiff, being introduced; I administered the required oath to him, and his testimony, in writing, as follows, then took down.

Thos. H. Lewis, esq., sworn, states, that he believes the signatures of Zenon Labauve and Chris'r Adams, attached to a document Q, now filed by Jno. L. Daniel, esq., and endorsed "Joseph Guidry to André Martin," to be genuine. Witness knew Pierre Guidry, when he, witness, was a boy; also, Joseph, nicknamed "Mine" Guidry; Joseph passed for the son of Pierre Guidry, and was, witness believes, a Creole of the country. Joseph, or "Mine" Guidry was much older than witness.

No cross questions by the district attorney.

(Signed) THOS. H. LEWIS.

I, Robt. M. Lusher, deputy commissioner as aforesaid, do hereby certify, that the foregoing is the true and exact deposition of the witness, Thomas H. Lewis; that the same was read aloud to him by me, and in my presence signed by him.

Witness my hand and seal, this 13th day of June, A. D. 1848.

(Signed) ROBT. M. LUSHER, [SEAL.]
D'y Commissioner in land causes.

2616.

60. *Document Q, endorsed "Joseph Guidry to André Martin, referred to in Thomas H. Lewis' deposition.*

THE STATE OF LOUISIANA, *parish of Iberville.*

Be it remembered that I, Joseph Guidry, the undersigned, by his mark, by these presents declare to have sold and conveyed, and by these presents do sell and convey, unto André Martin, a resident of the parish of Lafayette, all my rights, titles, and interest to a certain tract or parcel of land, situated on the Atchafalaya river, containing about forty arpents in front, more or less, whatever there can be found in front, with such depth as belongs to the same.

It is well understood that the vendor does not warrant the titles, but transfers them, such as they are, without any warranty, nor even the obligation of returning the price, if it should appear that there are no titles, or that they are bad; the sale being made entirely at the risk of the purchaser, who knows the whole concerning said claim, if any there are.

The consideration of such pretensions and titles is the sum of five hundred dollars, which I hereby declare to have received beforehand, and in cash, this 19th April, 1837.

his
Tested (Signed) JOSEPH X GUIDRY,
mark.
" ZENON LABAUVE,
" CHRIS'N ADAMS.

70. Deposition of Zénon Labauve as to signatures of witnesses, to foregoing act of sale.

Commission.

Dist. court of the United States, for the eastern district of Louisiana.

To Eugene W. Blake, esq., U. S. commissioner for the district of Louisiana, or any other U. S. commissioner for said district, at Plaquemine, La:

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you Zénon Labauve, esq., of the parish of Iberville, and him duly examine on oath, touching and concerning certain matters and things as set forth in the annexed interrogatories, in a cause now depending in the said court, wherein Joseph Hughes is plaintiff, and the United States are defendants; and the same examinations, so taken and reduced to writing, you certify under your hand [and] seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause; and send, also, this writ, together with the interrogatories and doc. Q annexed.

Witness the honorable Theo. H. McCaleb, judge of said court, at the city of New Orleans, this ninth day of May, anno domini 1849, and the 73d year of the independence of the United States of America.

[SEAL] (Signed) ROBT. M. LUSHER,
Dy. clerk.

Interrogatories on the part of plaintiff.

JOSEPH HUGHES
vs. } No. 46.
The UNITED STATES.

District court of the United States, in and for the eastern district of La.

Interrogatories to be answered by Zenon Labauve, of the parish of Iberville, La., and when answered, to be read as testimony in this suit.

Int. 1st: Did you or did you not write the sale or deed filed in this suit, and marked Q; and which purports to be a sale or deed from Joseph Guidry to André Martin?

Int. 2nd: Did you not witness the said deed or sale?

Int. 3d: Do you or do you not know why the said Guidry signed by his mark?

Int. 4th: Do you or do [you] not know that the said Joseph Guidry was commonly called Mine Guidry?

(Signed) JNO. L. DANIEL,
Agent for J. Hughes.

Cross examined by U. S. dist. atty., for eastern district of Louisiana.

1. Have you any interest in the event of this suit?
2. Are you related to plff., and if so, in what degree?
3. Who wrote the deed mentioned in the chief examination?
4. Did you see the money paid mentioned in said deed?
5. Do you know André Martin; did you see him sign the deed spoken of; who is he; where does he live; how long have you known him; what is his age?
6. Did you know Joseph Guidry; was he present when the mark was made to the deed; how do you know him to be the same man mentioned in the deed?
7. Where is Joseph Guidry; how do you know him to be the same who was called Mine Guidry?
8. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

(Signed) THOMAS J. DURANT,
Atty. U. S. for e. d. La.

(The foregoing annexed to commission issued from U. S. dist. court, N. O., May 9, 1849.)

(Also Doc. Q, filed June 13th, 1848.)

(Signed) ROBT. M. LUSHER, *Dy. clerk.*

Deposition.

JOSEPH HUGHES
vs. } No. 46.
The UNITED STATES.

267.

District court of the United States, in and for the eastern district of Louisiana.

Zénon Labauve being duly sworn, does answer the interrogatories to him propounded in said entitled cause, as follows:

To the first question: I did write the sale in question from Joseph Guidry to André Martin.

To the 2d interrogatory: I did witness the said deed of sale; I know my signature to it as witness.

To the 3rd interrogatory: I believe that said Joseph Guidry did not know how to write.

To the 4th interrogatory: Said Joseph Guidry was generally and better known by the name of "Mine" Guidry, than by Joseph Guidry.

Answer to cross interrogatories.

To the 1st int: He answers, no.

To the 2d int: He answer, no.

To the 3d int: The deed is in my handwriting.

To the 4th int: I do not remember to have seen the money paid.

To the 5th int: I know André Martin, or I knew well one André Martin, a creole of Attakapas, residing in the parish of Lafayette; I did not see [him] sign the deed in question; I have known this André Martin for more than twenty years, for I resided in Attakapas myself many years; I would judge that he ought to be now about fifty years.

To 6th interrogatory: I knew Joseph Guidry; he must have made his mark himself in my presence, for otherwise I should not have signed the deed as a witness; I know that it is the same man mentioned in the deed, who made his mark; I was well acquainted with him for many years, and I know that it is the same man generally known as Mine Guidry; I knew him in Attakapas; he some years ago came to reside in this parish of Iberville, when he bought a piece of land on bayou Plaquemine, and he got me to examine the titles to this land; he died in this parish a few years ago.

The 7th interrogatory is answered in the 6th.

To the 8th: I know nothing beyond what I have answered as above.

(Signed) ZENON LABAUVE.

Sworn to and subscribed before me, this 29th May, 1849.

STATE OF LOUISIANA, *parish of Iberville.*

I, the undersigned United States commissioner, in and for the district of Louisiana, acting under the annexed commission to me addressed by the United States district court for the eastern district of Louisiana, have caused Zenon Labauve, esq., to appear before me, at my office at Plaquemine; and who having been duly sworn deposeth as above, in answer to the interrogatories and cross interrogatories in the above entitled and numbered cause, and were taken down and rendered to writing by said Labauve, at my request and under my supervision.

Given under my hand, at Plaquemine, this 29th May, 1849.

(Signed) E. W. BLAKE, [L. S.]

U. S. Commissioner.

8o. *Deed of sale by André Martin to Joseph Hughes.*

Be it remembered that, on this first day of March, one thousand eight hundred and forty-six, I, Andre Martin, of the parish of Lafayette, for and in consideration of the sum of three hundred dollars, cash in hand, formerly received by me, do by this act sell, transfer, convey, set over, and deliver, in full property to Mr. Joseph Hughes, of the parish of St. Landry, all my right, title, interest, and claim to a certain tract or parcel of land, situated on the Atchafalaya river, supposed to contain about forty arpents in front, more or less, with such depth as may belong to the same. Said land is supposed to lay at or near the old crossing of the Atchafalaya, going from Opelousas to Pointe Coupée. This sale is made in consideration of a certain writing obligatory, which I signed and delivered to John L. Daniel, in the year 1840, whereby I bound myself to make the said Daniel a title, when called on, to the above described land; and whereas the said writing obligatory was transferred, by the said Daniel to said Joseph Hughes, by the assignment of the said Daniel in the year 1842; now, in compliance with the conditions of the said writing obligatory, I now transfer to the said Joseph Hughes such title to the above described tract of land as I hold by purchase from Joseph Guidry, dated the 19th April, 1837, without any warranty whatever on my part, but entirely at the risk of the purchaser.

(Signed) ANDRE MARTIN.

Witnesses: (Signed) J. GREIA,
VATODHERPRES,
Temoins.

On this twenty-fourth day of May, A. D. one thousand eight hundred and forty-nine, before me, Auguste Cesar, recorder and ex officio notary public in and for the parish of Lafayette, personally came and appeared André Martin, of the aforesaid parish, who declared that [he] executed and signed the foregoing sale for the uses and purposes therein contained.

In witness whereof I have hereunto set my hand and official seal, at Vermillionville, on the day and year first above written.

(Signed) AUGUSTE CESAR, [SEAL.]
Recorder of the parish of Lafayette.

Close of evidence.

And afterwards, to wit, on the 7th day of June, being at the May term, A. D. 1849, the following judgment was entered of record:

THURSDAY, *June 7th*, 1849.

Present, the hon. Theo. H. McCaleb.

JOSEPH HUGHES
vs. } No. 46.
THE UNITED STATES.

Judgment.

The court this day rendered its judgment herein in favor of the plaintiff, as follows:

2668.

For the reasons filed in the suit of Joseph Hughes versus the United States, Nos. 47 and 48 of the docket of land causes, it satisfactorily appearing to the court that the law and evidence are in favor of the plaintiff, Joseph Hughes, and that he has fully made out his case under the provisions of the act of Congress, approved on the 17th of June, 1844, reviving and extending to Louisiana and other States the act of Congress, entitled "An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas, to institute proceedings to try the validity of their claims," approved on the 26th of May, 1824; and it also appearing to the satisfaction of the court, that the grant under which the said plaintiff, Joseph Hughes, now holds, was such a grant as would have been perfected into a complete title under the laws, usages, and customs of the government under which the same originated and was secured by treaty stipulations, and that it is valid under the laws of nations and by the several acts of Congress relating thereto:

It is therefore ordered, adjudged, and decreed, that the said plaintiff, Joseph Hughes, recover of and from the United States one thousand arpents of land, to be taken, as near as may be, from off the front part of a certain tract or grant of land, situated on the west bank of the Atchafalaya river, having forty arpents front by a depth of forty arpents (or ordinary,) and described as joining the lands granted to André Martin on the said west bank of the said Atchalafaya river, about one league above, where the road or trace from Opelousas to Pointe Coupée crosses said river, and which said grant of land was made to Joseph Guidry, on the 1st day of February, 1799, by Manuel Gayoso de Lemos, then governor of the province of Louisiana.

It is further ordered, adjudged, and decreed, that in case the United States shall have sold, or otherwise disposed of, any portion of the land so adjudged and decreed to the said plaintiff, Joseph Hughes, then the said Hughes shall be entitled to locate an equal quantity elsewhere, according to the provisions of the 11th section of the act of Congress, approved on the 26th of May, 1824.

Judgment rendered 7th June, 1849; judgment signed 8th June, 1849.

(Signed) THEO. H. McCALEB,
U. S. Judge.

And further, at the same term, to wit, on the 8th day of June, 1849, the following motion and order of appeal was entered of record:

Before the honorable Theodore H. McCaleb, on this Friday, the eighth day of June, 1849.

On motion of Logan Hunton, esq., attorney of the United States, for the eastern district of Louisiana, and of Thomas J. Durant, esq., also on behalf of the United States; and on giving the court to understand and be informed that the United States are injured and aggrieved by the judgment of this honorable court, rendered against them at this term, in the matter of Joseph Hughes *versus* The United States, and desire to appeal therefrom.

It is thereupon ordered by the court, that an appeal be allowed in favor of the United States from the judgment aforesaid, returnable to the Supreme Court of the United States, at the next term thereof after the date of this order.

And further, at the same term, to wit, on the 9th day of June, 1849, the following entry was made of record:

Saturday, June 9th, 1849.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

In this cause, plaintiff's counsel now comes into court and moves that the district attorney of the United States shew cause, on Monday, the 11th inst., at 10 a. m., why the order of appeal in the above suit should not be rescinded and set aside, because the judgment in this cause is for a less quantity of land than one thousand acres.

And further, at the same term, to wit, on the 11th day of June, 1849, the following entry was made of record:

Monday, June 11th, 1849.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

The hearing of the motion entered herein to set aside the order of appeal granted in this cause was, by consent, continued until to-morrow, at 10 a. m.

And further, at the same term, to wit, on the 12th day of June, A. D. 1849, the following entry was made of record:

Tuesday, June 12th, 1849.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

The motion entered herein to set aside the order of appeal granted in this cause was this day taken up and argued by Wm. Dunbar, esq., on behalf of the complainant, and the attorney of the United States for the defendants; when the court took the matter under advisement.

And further, at the same term, to wit, on the 13th day of June, A. D. 1849, the following entry was made of record:

Wednesday, June 13th, 1849.

Present, honorable Theo. H. McCaleb.

JOSEPH HUGHES vs. THE UNITED STATES. } No. 46.

Having held under advisement the motion entered herein to set aside

2689.

the order of appeal heretofore granted in this case, and being of the opinion, from a consideration of the law and the argument of counsel, that the complainants have shewn no sufficient reason for rescinding said order; and further, that doubts as to the interpretation to be given to the act of May 26th, 1824, are properly to be determined by the Supreme Court of the United States, the court doth now order and decree, and it is hereby ordered and decreed, that said motion be overruled and dismissed.

Finis.

UNITED STATES OF AMERICA,
Eastern district of Louisiana.

I, Needler R. Jennings, clerk of the district court of the United States, sitting at New Orleans, in and for said district, do hereby certify, that the foregoing thirty-two folios of manuscript contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery, wherein Joseph Hughes (No. 46) is plaintiff, and the United States are defendants, No. 46 of the land docket of said court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, this twenty-
[SEAL.] fourth day of September, one thousand eight hundred and forty-nine, and seventy-fourth year of American independence.

N. R. JENNINGS,
Clerk U. S. district court, eastern district of Louisiana.

I, Theodore H. McCaleb, judge of the district court of the United States, for the eastern district of Louisiana, do certify, that N. R. Jennings, who subscribed the above certificate, was, at the time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

Witness hereto my hand and seal, at New Orleans, this 25th day of September, A. D. 1849.

THEO. H. McCALEB. [SEAL.]

The United States of America, to Joseph Hughes, of the parish of St. Landry, State of Louisiana, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an order of appeal granted, on the eighth day of June, 1849, by the district court of the United States, in and for the eastern district of Louisiana, in a certain cause in chancery, (under the acts approved May 26th, 1824, and June 17th, 1844,) entitled (No. 46) Joseph Hughes vs. the United States,